



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2012-0066]

RIN 1625-AA08

Special Local Regulations; OPSAIL 2012 Connecticut, Niantic Bay, Long Island Sound, Thames River and New London Harbor, New London, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary special local regulations on the navigable waters of Niantic Bay, Long Island Sound, the Thames River and New London Harbor, New London, Connecticut for OPSAIL 2012 Connecticut (CT) activities. This action is necessary to provide for the safety of life on navigable waters during OPSAIL 2012 CT. This action would restrict vessel traffic in portions of Niantic Bay, Long Island Sound, the Thames River, and New London Harbor unless authorized by the Captain of the Port (COTP) Sector Long Island Sound (SLIS).

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 60 DAYS AFTER

DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Requests for public meetings must be received by the Coast Guard on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2012-0066 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Petty Officer Joseph Graun, Prevention Department, U. S. Coast Guard Sector Long

Island Sound, (203) 468-4544, Joseph.L.Graun@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting comments

If you submit a comment, please include the docket number for this rulemaking USCG-2012-0066, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via www.regulations.gov, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received

at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number (USCG-2012-0066) in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2012-0066) in the "SEARCH" box and click "SEARCH." Click

on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. using one of the four methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

Basis and Purpose

The legal basis for this rule is 33 U.S.C. 1233, which authorizes the Coast Guard to define Special Local Regulations.

This temporary special local regulation is necessary to ensure the safety of vessels and spectators from hazards associated with OPSAIL 2012 CT.

Discussion of Proposed Rule

From Friday July 6 through Saturday July 7, 2012 Operation Sail, Inc. is sponsoring the "Parade of Sail" a tall ship marine parade into New London Harbor. Tall ships and other participating vessels will be staged in Niantic Bay on July 6, 2012. On July 7, 2012, the tall ships and participating vessels will commence the "Parade of Sail"

transiting from Niantic Bay to New London Harbor via Long Island Sound and the Thames River Federal Channel. The Coast Guard expects a minimum of 5,000 spectator craft for this event. Once in New London Harbor, the vessels will be moored or anchored and available for public viewing until July 8, 2012.

The COTP SLIS has determined the combination of increased numbers of recreation vessels, a marine parade and congested waterways has the potential to result in serious injuries or fatalities. This special local regulation temporarily establishes regulated areas to restrict vessel movement around the location of the marine parade to reduce the risk associated with congested waterways. For these reasons The Coast Guard proposes five temporary regulated areas on Niantic Bay, Long Island Sound, the Thames River and New London Harbor from July 6, 2012 through July 7, 2012. Exact coordinates for each area can be found in the regulation text.

Area 1; All navigable waters of Niantic Bay extending south into Long Island Sound. This proposed area would be used as a staging area for vessels participating in the "Parade of Sail". All vessels would be authorized to transit Area 1 at no wake speed or at speeds not to exceed 6 knots, whichever is less to maintain steerage way.

In addition vessels transiting must not maneuver within 100 yards of a tall ship or other vessel participating in OPSAIL 2012 CT. This regulated area would be enforced from 6 a.m. July 6, 2012 until 5 p.m. July 7, 2012.

Area 2; All navigable waters of the Thames River and Long Island Sound From the Thames River Rail Road Bridge to the mouth of the river then south west to Bartlett Reef. This area would be for the exclusive use of vessels participating in the "Parade of Sail" and would be enforced from 10 a.m. until 5 p.m. on July 7, 2012.

Area 3; All navigable waters at the mouth of the Thames River west of the federal navigation channel. This area would be used as a spectator area limited to vessels exceeding 50 feet in length, carrying passengers for the viewing of the "Parade of Sail". Area 3 would be enforced from 7:30 a.m. until 5 p.m. on July 7, 2012.

Area 4; All navigable waters at the mouth of the Thames River east of the federal navigation channel. This area would be used as a spectator area limited to vessels exceeding 50 feet in length, carrying passengers for the viewing of the "Parade of Sail". Area 4 would be enforced from 7:30 a.m. until 5 p.m. on July 7, 2012.

Area 5; All navigable waters of the Thames River west of the Federal Navigation Channel between Fort Trumbull and the Thames River Rail Road Bridge. This area will be used as a turning and mooring area for vessels participating in the "Parade of Ship" and would be enforced from 10 a.m. until 5 p.m. on July 7, 2012.

The geographic locations of regulated areas, and specific requirements of this rule are contained in the regulatory text.

Notice of this special local regulation, would be provided prior to the event through the Local Notice to Mariners and Broadcast Notice to Mariners. In addition, the sponsoring organization, Operation Sail, Inc., is planning to publish information of the event in local newspapers, pamphlets, internet sites, television and radio broadcasts.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Executive Order 12866 and Executive Order 13563

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

Although this regulation prevents traffic from transiting a portion of Long Island Sound, the Thames River and New London Harbor during OPSAIL 2012 CT, the effect of this regulation will not be significant for the following reasons: The limited duration that the regulated areas will be in effect, mariners would be able to transit around some areas, persons and vessels would still be able to enter, transit through, anchor in, or remain within the regulated areas if authorized by the COTP SLIS or designated representative. The extensive advance notifications that will be made to the maritime community through the Local Notice to Mariners, marine information broadcasts and New London area media; Mariners will be able to adjust their plans accordingly based on the extensive advance information. In addition, the sponsoring organization, Operation Sail, Inc., is planning to publish information of

the event in local newspapers, internet sites pamphlets, television and radio broadcasts.

These regulated areas have been narrowly tailored to impose the least impact on maritime interests yet provide the level of safety deemed necessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This temporary rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit through Niantic Bay, portions of Long Island Sound, the Thames River and New London Harbor during various times from July 6-7, 2012. Although these regulations apply to a substantial portion of Niantic Bay

and New London Harbor, designated areas for viewing the "Parade of Sail" have been established to allow for maximum use of the waterways by commercial tour boats that usually operate in the affected areas. Vessels, including commercial traffic, will be able to transit around some designated areas, persons and vessels would still be able to enter, transit through, anchor in, or remain within the regulated areas if authorized by the COTP SLIS or designated representative. Before the effective period, the Coast Guard will make notifications to the public through the Local Notice to Mariners and Broadcast Notice to Mariners. In addition, the sponsoring organization, Operation Sail, Inc., is planning to publish information of the event in local newspapers, internet sites pamphlets, television and radio broadcasts.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory

Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under FOR FURTHER INFORMATION. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that

Order and determined that this rule does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in

sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of

materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under ADDRESSES. It appears that this proposed rule will qualify for Coast Guard categorical exclusion (34)(h), as described in figure 2-1 of the Instruction. This proposed rule establishes temporary special local regulations. We seek any comments or

information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Parts 100 as follows:

PART 100 -- SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add §100.T01-0066 to read as follows:

§100.T01-0066 Special Local Regulations; OPSAIL 2012 Connecticut, Niantic Bay, Long Island Sound, Thames River and New London Harbor, New London, Connecticut.

(a) Regulated Areas.

1) Area 1: All navigable waters of Niantic Bay and Long Island Sound within the following boundaries:

Beginning at position 41°18'53"N, 072°11'48" W then to 41°18'53" N, 072°10'38" W then to 41°16'40" N,

072°10'38" W then to 41°16'40" N, 072°11'48" W then to point of origin 41°18'53"N, 072°11'48" W (NAD 83).

2) Area 2: All navigable waters of the Thames River south of the railroad bridge and Long Island Sound within the following boundaries: Beginning on the east side of the Federal Channel at the Thames River Rail Road Bridge in the Port of New London 41°21'46" N, 072°05'14" W then southward along the east side of the Federal Channel to 41°17'38" N, 072°04'40" W (New London Harbor Channel Lighted Buoy ``2'' (LLNR 21790) then south west to 41°15'38" N, 072°08'22" W (Bartlett Reef Lighted Bell Buoy ``4'' (LLNR 21065)) then north to 41°16'28" N, 072°07'54" W (Bartlett Reef Lighted Buoy ``1'' (LLNR 21065)) then east to 41°17'07" N, 072°06'09" W then continuing east to 41°18'04" N, 072°04'50" W which meets the west side of the federal channel, then north along the west side of the federal channel to 41°21'46" N, 072°05'17" W (Thames River Railroad Bridge in the Port of New London), then east to the point of origin. (NAD 83).

3) Area 3: All Navigable water of the Thames River within the following boundaries. Beginning at 41°18'21"N, 072°05'36" W then to 41°18'21" N, 072°05'1.5" W then

to 41°18'57" N, 072°05'6" W then to point of origin.
(NAD 83).

4) Area 4: All waters of the Thames River within the following boundaries. Beginning at 41°19'03"N, 072°04'48" W then to 41°19'04" N, 072°04'33" W then to 41°18'42" N, 072°04'30" W then to 41°18'40" N, 072°04'45" W then to point of origin. (NAD 83).

5) Area 5: All waters of the Thames River and New London Harbor within the following boundaries. Beginning at a point located on the west shore line of the Thames River 25 yards below the Thames River Railroad Bridge, 41°21'46" N, 072°05'23" W then east to 41°21'46" N, 072°05'17" W then south along the western limit of the federal navigation channel to 41°20'37" N, 072°05'8.7" W then west to 41°20'37" N, 072°05'31" W then following the shoreline north to the point of origin. (NAD 83).

(b) Special local regulations.

1) In accordance with the general regulations in section 100.35 of this part, entering into, transiting through, anchoring or remaining within the regulated areas is prohibited unless authorized by the Captain of the Port (COTP) Sector Long Island Sound (SLIS), or designated representative.

- 2) All persons and vessels are authorized by the COTP SLIS or designated representative to enter areas of this special local regulation in accordance with the following restrictions:
 - i) Area 1; all vessels may transit at a slow no wake speed or a speed not to exceed 6 knots, whichever is less to maintain steerage way. Vessels transiting must not maneuver within 100 yards of a tall ship or an OPSAIL 2012 CT participating vessel.
 - ii) Area 3 & 4; access is limited to vessels greater than 50 feet in length.
 - iii) Area 2 & 5; access is limited to vessels Participating in the "Parade of Sail".
- 3) All persons and vessels shall comply with the instructions of the COTP SLIS or designated representative. These designated representatives are comprised of commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing lights, or other means the operator of a vessel shall proceed as directed.
- 4) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated areas must contact the COTP SLIS by telephone at

(203)-468-4401, or designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated areas is granted by the COTP SLIS or designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP SLIS or designated representative.

- 5) The Coast Guard will provide notice of the regulated areas, prior to the event through the Local Notice to Mariners and Broadcast Notice to Mariners. Notice will also be provided by on-scene designated representatives

(c) Enforcement Period: This section will be enforced during the following times:

- 1) Area 1, from 6 a.m. July 6, until 5 p.m. on July 7,
2012.
- 2) Areas 3 and 4, from 7:30 a.m. until 5 p.m. on July 7,
2012.
- 3) Areas 2 and 5, from 10 a.m. until 5 p.m. on July 7,
2012.

Dated: March 6, 2012

J. M. Vojvodich
Captain, U. S. Coast Guard
Captain of the Port Sector Long Island Sound

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